

CURT SMITCH
Director



STATE OF WASHINGTON
DEPARTMENT OF WILDLIFE

RECEIVED

SEP 28 1993

WILDLIFE MGMT.

5405 N.E. Hazel Dell Ave., Vancouver, WA 98663

Tel. (206) 696-6211

September 24, 1993

Mr. Lanny Cawley, Manager
Port of Woodland
P. O. Box 87
Woodland, WA 98674

Dear Mr. Cawley:

Subject: **AUSTIN POINT MITIGATION AGREEMENT**

We have recently received a number of complaints about the site of the proposed grain and bulk commodities terminal at Austin Point. After a visit to the area, we have several concerns about the land that was to be set aside as mitigation for the project.

As you can see from the enclosed mitigation agreement, this project has been on the books for over eleven years. The terminal and its associated facilities have not been started, and the condition of the proposed mitigation area has changed for the worse. Does the Port of Woodland still intend to go forward with the project?

The mitigation land on Austin Point itself has been severely impacted by the use of off road vehicles (ORVs) driving through the area. Use of the area by ORV's is specifically prohibited by the agreement, yet it appears that little or no action has been taken to enforce this provision.

The wetlands that were to be developed north of Austin Point are now in the middle of a cattle feed lot operation. Impacts from the cattle operation may have rendered this area unsuitable for development of the wetlands outlined in subparagraphs 1, 4, and 6.

The parking area discussed in subparagraph 2 has not been constructed.

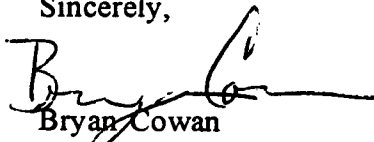
If the project is still on the table, significant changes to the mitigation agreement may be in order due to the poor condition of the area. If the Port of Woodland does not intend to

Cowan called on 10/26/93 & said Port wants to still use this mitigation area for future developments. The original project was never built. Bryan reports the area has been trashed by ORV's and the wetland area is non-functional. He will work with Port on improvements to area or cancellation of the agreement.


Mr. Lanny Cawley
page 2
September 24, 1993

construct the terminal, please let me know as soon as possible to allow me to cancel the agreement. Please don't hesitate to call if I can be of assistance. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bryan Cowan", with a long horizontal flourish extending to the right.

Bryan Cowan
Regional Habitat Program Manager

cc: Lee Van Tussenbrook
Bob Bicknell
Ray Croswell

Bob Zak

enclosure



OFFICE OF THE ATTORNEY GENERAL

Inter-office Correspondence

Date March 31, 1982

To. Judy Alwine, GAME

From Paul S. Majkut, Assistant Attorney General *PSM*

Subject Attached Letter

Would you please obtain Director Lockard's signature on the attached affidavit, and then send the letter, with the attached affidavit and agreement, to the Cowlitz County Auditor. Before mailing, however, would you make us a copy for our files. Thanks.

PSM:bl

Attachment

(P.S.) Please note that your office should retain the original of the agreement (attached) and mail a copy with the letter to the auditor.

RECEIVED
ATTORNEY GENERAL
MAY 1 1982



OFFICE OF THE ATTORNEY GENERAL

Ken Eikenberry, Attorney General

Temple of Justice, Olympia, Washington 98504

March 31, 1982

Cowlitz County Auditor
Cowlitz County Courthouse
310 So. First Street W.
Kelso, WA 98626

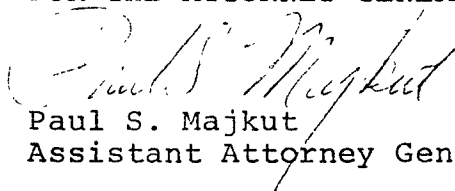
Dear Auditor:

We are sending you the enclosed certified copy of an agreement reached by the Port of Woodland with the Department of Game and others for filing with your office pursuant to the terms of that agreements.

The lands in question, identified therein as Port of Woodland lands at the tip of Austin Point at the confluence of the Lewis and Columbia Rivers, are located in T. 4 N., R. 1 W. and T. 5 N., R. 1 W.

Very truly yours,

FOR THE ATTORNEY GENERAL


Paul S. Majkut
Assistant Attorney General

PSM:bl

Enclosure

JOHN SPELLMAN
Governor



STATE OF WASHINGTON
DEPARTMENT OF GAME

600 North Capitol Way, GJ-11 • Olympia, Washington 98504 • (206) 753-5700

AFFIDAVIT OF FRANK R. LOCKARD


State of Washington)
County of Thurston) ss.

I, FRANK R. LOCKARD, being first duly sworn on oath,
depose and say:

That I am the Director of the Washington State Department
of Game and that I am a lawful custodian of the mitigation agree-
ments on file in the offices of the Department of Game. I further
certify that the attached document to which this certificate is
attached is a true and accurate copy of the Port of Woodland
mitigation agreement as the same appears on file in the offices
of the Department of Game.


FRANK R. LOCKARD

SUBSCRIBED AND SWORN to before me this 6 day of
April, 1982.


NOTARY PUBLIC in and for the
State of Washington, residing
at Olympia

A G R E E M E N T

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7 DEC 1981

The Port of Woodland has proposed to construct and operate a grain and bulk commodities terminal at the confluence of the Lewis and Columbia Rivers at Austin Point.

The Port of Woodland desires to protect wildlife resources from adverse impacts of the project and to provide mitigation for unavoidable adverse impacts of the project and other development of Austin Point. The purpose of this agreement is to memorialize an agreement between the Port of Woodland, Department of Game, and other signatories concerning mitigation required under the FWCA, 16 USC § 661, et seq., for the adverse effects of the grain and bulk commodities terminal and other development of Austin Point on the fish and wildlife utilizing the Austin Point area.

1. Mitigation Lands. The mitigation lands are identified on the attached aerial photograph, Exhibit 1. Those lands consist of approximately 43 acres of land. Those lands include 30.3 acres of property, including 1.0 acre of access lands at the southern end of Austin Point. The access lands consist of a 60-foot corridor which runs along the west and north boundary lines of the Beebe property pictured on Exhibit 1 to provide access from the dike road to the mitigation lands. Those lands also include approximately 6.1 acres of wetlands and buffer strips described in paragraph 5, herein. The mitigation lands shall be maintained in a natural state. The Port of Woodland agrees to commit said access lands to an easement for public access by filing said easement in the form of a deed with the Cowlitz County Auditor. The mitigation lands also include, in addition to the 43 acres above described, a parking area described in paragraph 2 herein and a rail spur and loop area described in paragraph 7 herein.

2. Access and Parking. Presently parking is allowed in an area indicated on Exhibit 1 south of the proposed terminal facility. In the event that there is future development of these lands, the Port agrees to provide parking access in kind (unpaved) along the dike road in the area of the Beebe property.

3. Foot Traffic. Foot traffic is presently allowed over the area south of the proposed terminal site. In the event of future development in the area south of the proposed terminal site, foot traffic will be allowed through the 60-foot corridor area referred to in Paragraph 1 above.

4. Enlargement of Wetlands. A wetland area pictured on Exhibit 1 currently exists on the north end of the Austin Point project lands. That wetland area consists of approximately three

acres and will be expanded with an additional 3.7 acres of additional wetlands as pictured on Exhibit 1 for project mitigation. All of these lands are depicted on Exhibit 1. The Port shall allow the signatories to review Port plans for expansion of the wetland. Those plans shall be designed and implemented to create a wetland habitat similar to that already in existence at the site identified on Exhibit 1.

5. Buffer Strip Around Wetlands. The Port agrees to permanently maintain in its natural state a buffer strip area 100-feet wide around the expanded wetland area described in Paragraph 4 and pictured on Exhibit 1. This buffer strip consists of approximately 6.1 acres of land. The railroad line also designated on Exhibit 1 may cut into that buffer strip to the extent demonstrated on Exhibit 1.

6. Off-road Recreational Vehicles. The Port agrees that no ORV's shall be allowed on the mitigation lands or from the Austin Point area unless permitted by the Department of Game.

7. Rail Loop / Wildlife Habitat. The Port agrees to maintain wildlife habitat vegetation in its natural state to the extent compatible with operation of the railroad line through that area on both sides of the rail line pictured on Figure 3 of the Austin Point grain and bulk commodities terminal final environmental impact statement, copy attached as Exhibit 2.

8. This agreement shall be effective as of the date of execution by all parties for the life of the project and shall continue in full force and effect so long as any part of the commodities terminal shall continue to be used for terminal or other purposes. It also shall continue as long as this area is so used by the Port of Woodland or its successors or assigns.

ACCEPTED AND APPROVED BY:

Larry Bennor
Washington Department of Game

DATE

11/6/81

Rebecca A. Schmidt
Washington Dept. of Fisheries

DATE

11/12/81

Joseph Blum
U.S. Fish and Wildlife Service

DATE

11-20-81

Maria Conz
Cowlitz County Department of
Community Development

DATE

12/8/81

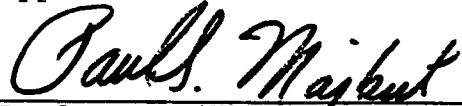
Dean Raminator, Manager
Port of Woodland

DATE

12-10-81

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Approved as to Form:



Paul S. Majkut
Assistant Attorney General
Department of Game

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7 DEC 1981
COMMUNITY
DEVELOPMENT
DEPT.

Approved as to Form:



James M. Johnson
Sr. Assistant Attorney General
Department of Fisheries

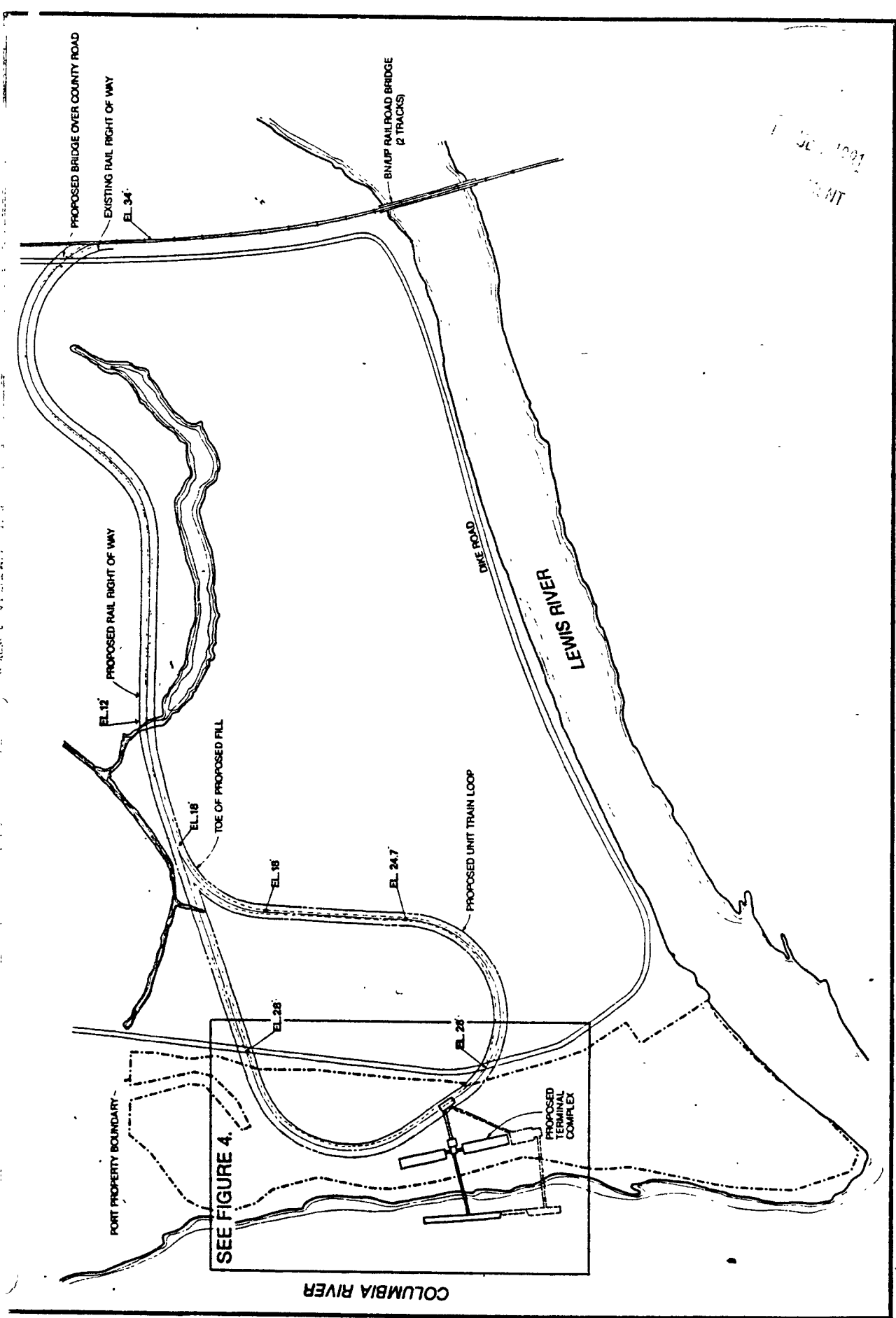


Figure 3. Location of proposed rail loop.



OFFICE OF THE ATTORNEY GENERAL

Inter-office Correspondence

Date March 31, 1982

To Judy Alwine, GAME
From Paul S. Majkut, Assistant Attorney General *PSM*
Subject Attached Letter

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PSM:bl

Attachment

(P.S.) Please note that your office should retain the original of the agreement (attached) and mail a copy with the letter to the auditor.



OFFICE OF THE ATTORNEY GENERAL
Ken Elkenberry, Attorney General
Temple of Justice, Olympia Washington 98504

March 31, 1982

Cowlitz County Auditor
Cowlitz County Courthouse
310 So. First Street W.
Kelso, WA 98626


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Very truly yours,

FOR THE ATTORNEY GENERAL


Paul S. Majkut
Assistant Attorney General

PSM:bl

Enclosure



STATE OF WASHINGTON
DEPARTMENT OF GAME

600 North Capitol Way, GJ-11 • Olympia, Washington 98504 • (206) 753-5700

AFFIDAVIT OF FRANK R. LOCKARD

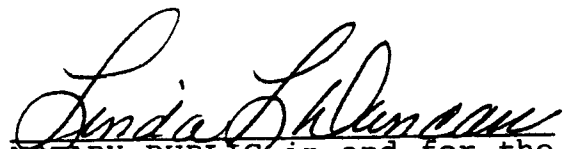
State of Washington)
County of Thurston) ss.

I, FRANK R. LOCKARD, being first duly sworn on oath,
depose and say:

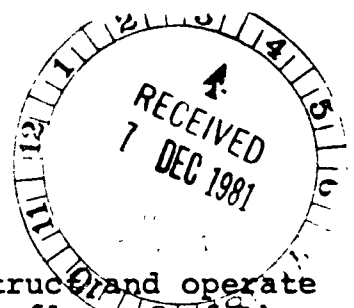
That I am the Director of the Washington State Department of Game and that I am a lawful custodian of the mitigation agreements on file in the offices of the Department of Game. I further certify that the attached document to which this certificate is attached is a true and accurate copy of the Port of Woodland mitigation agreement as the same appears on file in the offices of the Department of Game.


FRANK R. LOCKARD

SUBSCRIBED AND SWORN to before me this 6 day of
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NOTARY PUBLIC in and for the
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7 DEC 1981

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ACCEPTED AND APPROVED BY:

Larry Bennox
Washington Department of Game

DATE 11/6/81

Rebecca A. Jamnik
Washington Dept. of Fisheries

DATE 11/12/81

Joseph Blum
U.S. Fish and Wildlife Service

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Marc Conq
Cowlitz County Department of
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DATE 12/8/81

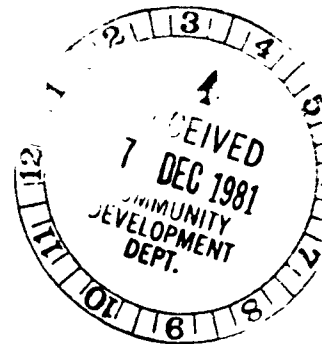
Dean Ramirez, Manager
Port of Woodland

DATE 12-10-81

Approved as to Form:

Paul S. Majkut

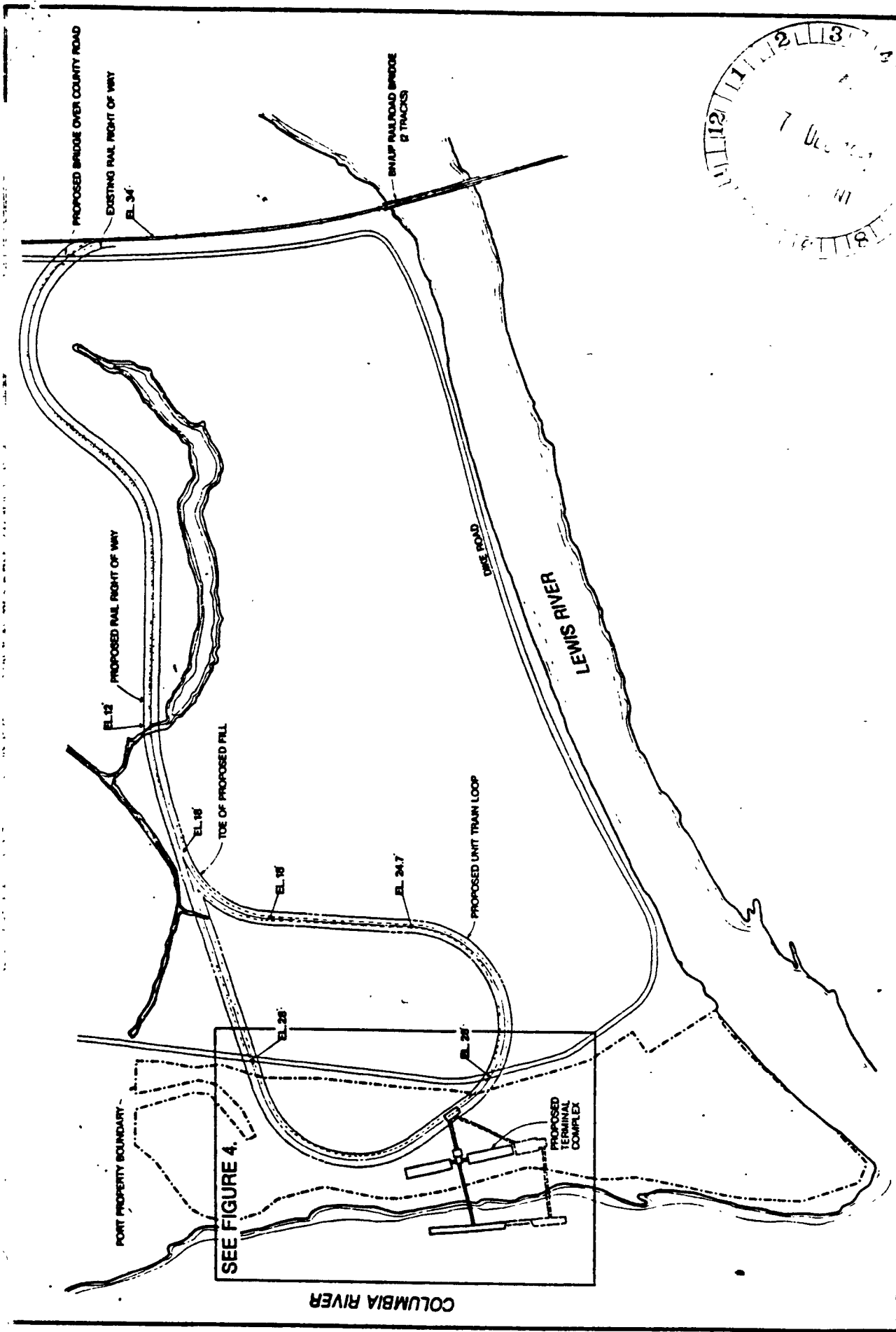
Paul S. Majkut
Assistant Attorney General
Department of Game



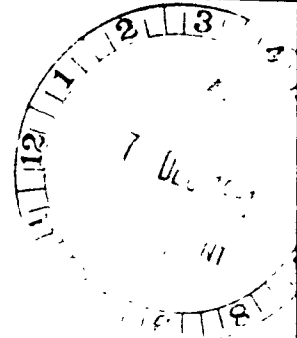
Approved as to Form:

James M. Johnson

James M. Johnson
Sr. Assistant Attorney General
Department of Fisheries



SEE FIGURE 4.



SCALE IN FEET

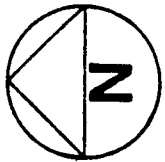
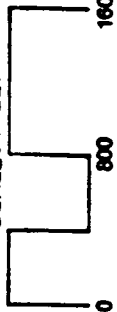


Figure 3. Location of proposed rail loop.